IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

WP(C).No. 2323 of 2007(B)

PETITIONER:

BHARAT SANCHAR NIGAM LTD.,
THIRUVANANTHAPURAM, REPRESENTED BY ITS

BY ADV. SMT.S.K.DEVI

RESPONDENTS:
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1. THE ASSISTANT COMMISSIONER (ASSESSMENT)
SPECIAL CIRCLE, DEPARTMENT OF COMMERCIAL TAXES,
MALLOOR ROAD, VANCHIYOOR, THIRUVANANTHAPURAM-3.

2. COMMISSIONER OF COMMERCIAL TAXES,
DEPARTMENT OF COMMERCIAL TAXES,
GOVERNMENT OF KERALA,THIRUVANANTHAPURAM.

3. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY (FINANCE),
SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. MUHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO.2323 OF 2007-B

JUDGMENT

The petitioner challenges Exts.P1 to P6 assessment orders, assessing it for sales tax for the years from 1997-98 to 2002-03. The justification for approaching this Court directly, challenging those orders are two fold. (1) The petitioner was not given sufficient opportunity to produce the records. So,there is violation of the principles of natural justice. (2) The main contentious point is apparently covered by the decision of the Apex Court in **Bharat Sanchar Nigam Ltd and Another v. Union of India and Others** [(2006)14 KTR 115(SC)]. The said aspect has not been considered by the assessing authority, while passing the impugned orders.

2. I feel that both the points can be effectively urged before the appellate forum and the said forum can grant reliefs also. Therefore, it is unnecessary for this Court to entertain this Writ Petition.

3. The learned counsel for the petitioner further points out that for invoking the appellate remedy substantial amount will have to be paid. I think it is a very poor ground to make a frog-leap to this Court. For invoking the appellate remedy, the petitioner has to comply with the

stipulations in the statute. In the absence of any challenge against those stipulations, this contention cannot be entertained. Accordingly, the Writ Petition is dismissed without prejudice to the contentions of the petitioner and its right to invoke the appellate remedy available to it.

2nd February, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/